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Attorneys for Plaintiff and Counter-defendant Epic Games, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EPIC GAMES, INC.,

Plaintiff, Counter-defendant,
v.

APPLE INC.,

Defendant, Counterclaimant.

Case No. 4:20-cv-05640-YGR-TSH

DECLARATION OF M. BRENT BYARS IN SUPPORT OF EPIC GAMES, INC.'S ADMINISTRATIVE MOTION TO SEAL PORTIONS OF ITS FOUR-HOUR DEPOSITION DESIGNATIONS

Judge: Hon. Yvonne Gonzalez Rogers

I, M. Brent Byars, declare as follows:

1. I am a Senior Attorney at Cravath, Swaine & Moore LLP, counsel to Epic Games, Inc. (“Epic”) in the above-captioned actions. I am admitted to appear before this Court *pro hac vice*.

2. I submit this declaration pursuant to Civil Local Rule 79-5. The contents of this declaration are based on my personal knowledge.

3. Epic’s Four-Hour Deposition Designations quote or reproduce discovery materials that Apple or third parties have designated as CONFIDENTIAL or HIGHLY CONFIDENTIAL pursuant to the Protective Order entered in this Court. Epic is serving its Motion and Declaration on the affected third parties pursuant to Civil Local Rule 79-5(e). The following Table shows each affected third party and the corresponding deposition designation that may contain information provided by each party.

| Deposition Designation | Affected Party |
|------------------------|----------------|
| Cue 109:4 - 110:16 | Apple |
| Cue 190:4 - 192:16 | Apple |
| Ong 9:10 - 9:12 | Match |
| Ong 9:15 - 9:18 | Match |
| Ong 9:22 - 10:12 | Match |
| Ong 12:09 - 13:25 | Match |
| Ong 17:03 - 17:15 | Match |
| Ong 17:22 - 18:25 | Match |
| Ong 20:15 - 20:22 | Match |
| Ong 21:23 - 21:25 | Match |
| Ong 22:10 - 23:05 | Match |
| Ong 23:09 - 23:17 | Match |

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|----|-----|---------------|-------|
| 1 | Ong | 24:17 - 25:05 | Match |
| 2 | Ong | 25:14 - 26:05 | Match |
| 3 | Ong | 28:09 - 28:22 | Match |
| 4 | Ong | 28:24 - 30:25 | Match |
| 5 | Ong | 31:22 - 31:24 | Match |
| 6 | Ong | 32:01 - 32:07 | Match |
| 7 | Ong | 32:10 - 32:22 | Match |
| 8 | Ong | 33:08 - 33:16 | Match |
| 9 | Ong | 33:18 - 34:07 | Match |
| 10 | Ong | 34:14 - 37:07 | Match |
| 11 | Ong | 37:25 - 38:11 | Match |
| 12 | Ong | 38:13 - 39:02 | Match |
| 13 | Ong | 39:16 - 39:24 | Match |
| 14 | Ong | 41:12 - 42:09 | Match |
| 15 | Ong | 43:04 - 44:19 | Match |
| 16 | Ong | 45:01 - 46:10 | Match |
| 17 | Ong | 46:13 - 46:15 | Match |
| 18 | Ong | 46:17 - 47:07 | Match |
| 19 | Ong | 47:15 - 48:01 | Match |
| 20 | Ong | 48:04 - 48:10 | Match |
| 21 | Ong | 48:14 - 48:19 | Match |
| 22 | Ong | 48:21 - 51:06 | Match |
| 23 | Ong | 56:03 - 56:04 | Match |
| 24 | Ong | 56:06 - 57:01 | Match |

| | | | |
|----|-----|---------------|-------|
| 1 | Ong | 57:20 - 57:22 | Match |
| 2 | Ong | 58:08 - 58:10 | Match |
| 3 | Ong | 58:20 - 59:16 | Match |
| 4 | Ong | 59:18 - 60:18 | Match |
| 5 | Ong | 60:20 - 60:23 | Match |
| 6 | Ong | 60:25 - 61:04 | Match |
| 7 | Ong | 61:06 - 61:18 | Match |
| 8 | Ong | 62:03 - 62:05 | Match |
| 9 | Ong | 62:07 - 62:16 | Match |
| 10 | Ong | 62:18 - 63:03 | Match |
| 11 | Ong | 63:05 - 64:16 | Match |
| 12 | Ong | 65:01 - 65:17 | Match |
| 13 | Ong | 65:19 - 65:25 | Match |
| 14 | Ong | 66:01 - 66:04 | Match |
| 15 | Ong | 66:12 - 66:24 | Match |
| 16 | Ong | 67:23 - 68:05 | Match |
| 17 | Ong | 69:17 - 69:21 | Match |
| 18 | Ong | 69:23 - 70:09 | Match |
| 19 | Ong | 70:11 - 70:15 | Match |
| 20 | Ong | 72:07 - 72:10 | Match |
| 21 | Ong | 74:08 - 74:10 | Match |
| 22 | Ong | 74:12 - 74:12 | Match |
| 23 | Ong | 84:01 - 84:03 | Match |
| 24 | Ong | 84:05 - 84:06 | Match |

| | | |
|-----|-----------------|-------|
| Ong | 84:22 - 85:03 | Match |
| Ong | 85:05 - 85:07 | Match |
| Ong | 120:12 - 120:13 | Match |
| Ong | 120:16 - 120:21 | Match |
| Ong | 120:24 - 120:25 | Match |
| Ong | 121:02 - 121:04 | Match |
| Ong | 152:04 - 152:23 | Match |
| Ong | 158:04 - 159:14 | Match |
| Ong | 162:03 - 162:22 | Match |
| Ong | 167:01 - 167:04 | Match |
| Ong | 167:06 - 167:20 | Match |
| Ong | 169:24 - 170:08 | Match |
| Ong | 170:10 - 170:19 | Match |
| Ong | 171:14 - 172:16 | Match |
| Ong | 172:18 - 173:06 | Match |
| Ong | 182:20 - 183:25 | Match |

4. Epic will provide prompt notice to any third parties who may have confidentiality interests in information provisionally sealed in its Four-Hour Deposition Designations so that those third parties may determine whether to request sealing of such information by the Court.

1 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is
2 true and correct and that I executed this declaration on April 27, 2021 in Oakland, California.

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5 /s/ M. Brent Byars

6 M. Brent Byars
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